

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re Pawn America Consumer Data
Breach Litigation

Case No. 21-cv-02554 (PJS/HB)

Jury Trial Demanded

MOTION TO DISMISS

Defendants Pawn America Minnesota, LLC, Payday America, Inc., and PAL Card Minnesota, LLC, by and through their undersigned counsel, and pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, move the court to dismiss plaintiffs' Consolidated Class Action Complaint (the "Complaint") for lack of standing and failure to state a claim. The Complaint fails to establish Article III standing for any named plaintiff on grounds that only two of the five named plaintiffs attempt to allege actual misuse of their personally-identifiable information ("PII"), and those two named plaintiffs still fail to allege facts making such alleged misuse fairly traceable to acts of the defendants. In the alternative, to the extent the Court finds any plaintiff has established standing, then the Complaint still should be dismissed pursuant to Rule 12(b)(6) for failure to state a claim on which relief may be granted. Plaintiff's allegations fail to establish causation and actual damages, essential elements of all of their claims. Moreover, Plaintiffs have failed to state facts to support claims of implied contract or negligence per se under applicable law.

The reasons why dismissal is proper are more fully set forth in the accompanying Memorandum of Law in support of this motion.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2022, the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/ Thomas W. Hayde